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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/608,203	06/27/2003	Tom Garrison	GAR03 P-103	7644
28101	7590	08/24/2006	EXAMINER	
VAN DYKE, GARDNER, LINN AND BURKHART, LLP			LEWIS, RALPH A	
2851 CHARLEVOIX DRIVE, S.E.			ART UNIT	PAPER NUMBER
P.O. BOX 888695				3732
GRAND RAPIDS, MI 49588-8695				

DATE MAILED: 08/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/608,203	GARRISON ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Ralph A. Lewis	3732	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 09 June 2006.  
 2a) This action is **FINAL**.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-8 and 10-30 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) 10-30 is/are allowed.  
 6) Claim(s) 1-3 and 6-8 is/are rejected.  
 7) Claim(s) 4 and 5 is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 27 June 2003 is/are: a) accepted or b) objected to by the Examiner. (*INFORMAL*)  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_.  
 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date \_\_\_\_\_.  
 5) Notice of Informal Patent Application (PTO-152)  
 6) Other: \_\_\_\_\_.

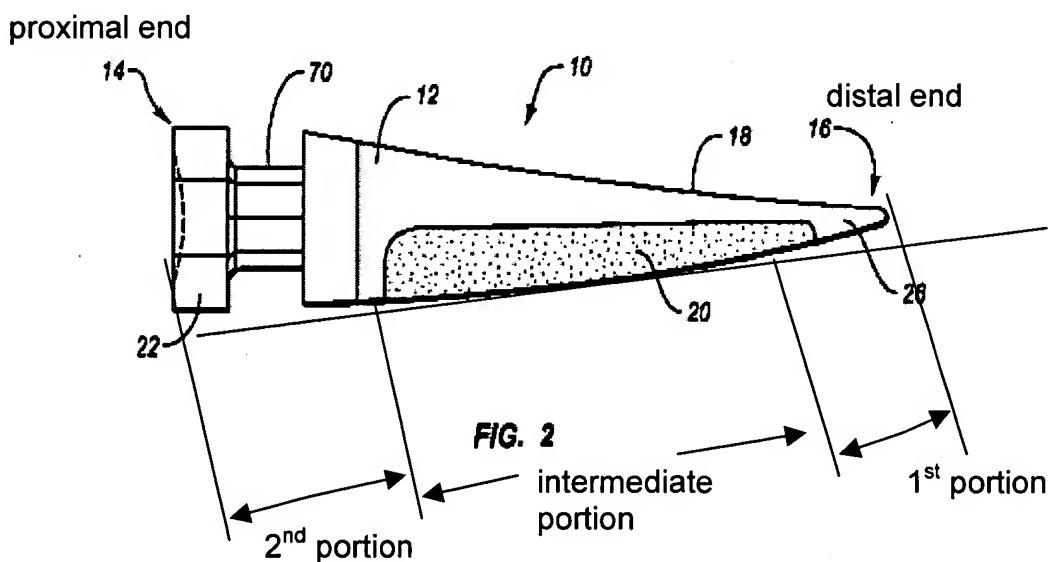
### Rejections based on Prior Art

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3 and 6-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fischer et al (US 6,402,514) in view of von Weissenfluh (US 4,631,030) and Fischer et al (US 5,890,900)

Fischer et al '514 disclose a dental wedge having an elongated body with a lower surface, a distal end 16, and a proximal end 14 that tapers toward the distal end 16. As illustrated below, the Fischer et al '514 device includes first and second portions that are inclined upward from an intermediate portion. The first portion has a generally triangular shaped cross-section.



The Fischer et al '514 reference meets all the limitations of present claim 1 with the exception of the requirement that second portion have a trapezoidal cross-section. In Fischer et al '514 the second portion includes head 22 that is disclosed as having an octagonal cross-section, but do disclose that the "head 22 can vary in size and shape and is not limited to the octagonal shape shown in Figure 1" (column 4, lines 34-36). The prior art is replete with teachings that the proximal end of a dental wedge have a trapezoidal shape as evidenced for example by von Weissenfluh (trapezoidal proximal end 1") and Fischer et al '900 (note Figures 1 and 2). To have merely formed the Fischer et al '514 dental wedge head 22 of a trapezoidal shape as is conventional in the art as shown in the secondary references and in view of the Fisher et al '514 statement that other shapes may be used would have been obvious to one of ordinary skill in the art.

In regard to claims 2 and 3, note the Fischer et al '514 distal end 16 having rounded tip 26 to prevent injury (see column 4, lines 59-62). In regard to claims 6 and 7, note elastomeric material 20 (thermoplastic, column 5, lines 53-55).

### **Allowable Subject Matter**

In regard to claims 4,17 and 24, Mechham (US 2,867,905) and Rawls (US 5,527,181) kind of illustrate rounded corners between the angled sides and the base, but do not provide for any discussion or reasoning as to why the corners appear to be rounded in the illustrations. In Fischer et al (US 6,402,514) the primary reference

teaching upwardly angled first and second portions, the corners between the angled sides and base are sharp (see Figure 3). The examiner is of the position that there is insufficient motivation to further modify the elastomeric material 20 of Fischer et al '514 to have a rounded corner as is specifically required in the present claims to reduce trauma to the tissue.

In regard to claim 10, Fischer '514 discloses a softer elastomeric exterior surface 20, but it is not of a substantially uniform thickness as is required by the claims. There is insufficient motivation to modify the specifically designed surfaces 20 of Fischer '514 to have a uniform thickness as shown by Mecham (2,867,905).

Accordingly, claims 10-31 are allowed and claims 4 and 5 are objected to as being dependent on a rejected base claim, but would be allowable if rewritten in independent form to include all of the limitations of the claims from which they depend.

### **Action Made Final**

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any inquiry concerning this communication should be directed to **Ralph Lewis** at telephone number **(571) 272-4712**. Fax (571) 273-8300. The examiner works a compressed work schedule and is unavailable every other Friday. The examiner's supervisor, Kevin Shaver, can be reached at (571) 272-4720.

R.Lewis  
August 19, 2006



Ralph A. Lewis  
Primary Examiner  
Art 3732